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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,669	10/22/2003	Yukihiko Ichikawa	011350-323	6501
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EXAMINER CHU, RANDOLPH I				
ART UNIT 2624		PAPER NUMBER		
NOTIFICATION DATE 11/14/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary

Application No.

10/689,669

Applicant(s)

ICHIKAWA ET AL.

Examiner

RANDOLPH CHU

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-24 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
3) ☐ Information Disclosure Statement(s) (PTO/SF 100)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

In response to applicant's amendment received on 7/21/2008, all requested changes to the claims have been entered.

Response to Argument

Applicant's arguments filed on 7/21/2008, have been fully considered but they are not persuasive.

With respect to claim 1, 9 and 17, terms "filled closed area" and "unfilled closed area" are not well known term. Any closed areas that have different color can be read as "filled closed are" and "unfilled closed area". Applicant states that paragraph [0007] of the present published application described "filled closed area" and "unfilled closed area" but they are not defined in the claim.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. With respect to claim 1-8, these claim are 'device claims', but there are no hardware structural component are found. A position information recognizing part, an attribute recognizing part, a file producing part, and a sequence setting part in claim reads as software modules which are processes.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9-16 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101" – publicly available at USPTO.GOV, "memorandum to examining corp"). The instant claims neither transform underlying subject matter nor positively tie to another statutory

category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. In order for a process to be "tied" to another statutory category, the structure of another statutory category should be positively recited in a step or steps significant to the basic inventive concept, and NOT just in association with statements of intended use or purpose, insignificant pre or post solution activity, or implicitly.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 8 are rejected under 35 USC 103(a) as being unpatentable over Tanaka (US 2002/0003897) in view of Hoffman et al. (US 2004/0169664).

Tanaka teaches an image area extracting part for extracting a plurality of image areas from image data (Fig.1 ref label 19); a positional information recognizing part for recognizing positional information of each extracted image area (Fig 5A ref label S4605, paragraph [0085]); an attribute recognizing part for recognizing at least attributes concerning whether each extracted image area is a filled closed area or an

unfilled closed area (abstract, an enclosed area color detection unit that detects the colors inside the enclosed area);

Tanaka does not teach a file producing part for producing a file by synthesizing said image areas based on the positional information recognized by said positional information recognizing part; and a sequence setting part for setting up overlaying sequence for each image area in accordance with the recognition result of said attribute recognizing part, wherein said file producing part produces the file by overlaying said image areas in accordance with the overlaying sequence set up by said sequence setting part.

Hoffman et al. teaches a file producing part for producing a file by synthesizing said image areas based on the positional information recognized by said positional information recognizing part (para. [0006] and [0059]) wherein said file producing part produces the file by overlaying said image areas in accordance with the overlaying sequence set up by said sequence setting part (para. [0059]); sequence setting part for setting up overlaying sequence for each image area in accordance with the recognition result (formatting properties) of said attribute recognizing part (claim 1 (c) and claim 4, para. [082]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to set up overlaying sequence for image area and save into a file in the device of Tanaka.

The suggestion/motivation for doing so would have been that to optimize image processing by identifying / segmenting the image layer so that they can be processed individually and then recombined into a desired order to achieve a better output image.

Therefore, it would have been obvious to combine Hoffman et al. with Tanaka to obtain the invention as specified in claim 1.

With respect to claim 8, Tanaka teaches document scanning unit for scanning documents to obtain input image data, wherein said image area extracting part extracts a plurality of image areas from the input image data obtained by scanning the documents (para. [0041]).

3. Claim 2 is rejected under 35 USC 103(a) as being unpatentable over Tanaka (US Patent Application Pub. 2002/0003897) in view of Hoffman et al. (US 2004/0169664) as applied to claim 1 above and further in view of Bourder et al. (US Patent Application Pub. 2005/0116963).

Tanaka in view of Hoffman et al. teaches all the limitation of claim 1 which claim 2 depends.

Tanaka in view of Hoffman et al. does not teach that said sequence setting part sets up the overlaying sequence to overlay unfilled closed areas in front of filled closed areas.

Bourder et al. teaches overlaying unfilled closed areas in front of filled closed areas (paragraph [0025]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to overlay unfilled closed areas in front of filled closed areas in the device of Tanaka, Hoffman et al.

The suggestion/motivation for doing so would have been that to exhibit transparency instead of covering another object when object is unfilled (Bourder et al. , paragraph [0025]).

Therefore, it would have been obvious to combine Bourder et al. with Tanaka, Hoffman et al. to obtain the invention as specified in claim 2.

4. Claim 3 is rejected under 35 USC 103(a) as being unpatentable over Tanaka (US Patent Application Pub. 2002/0003897) in view of Hoffman et al. (US 2004/0169664) in further view of Bourder et al. (US Patent Application Pub. 2005/0116963) as applied to claim 2 above and in further view of Accad (US Patent 6,330,363)

Tanaka in view of Hoffman et al. in further view of Bourder et al. teaches all the limitation of claim 2 which claim 3 depends.

Tanaka in view of Hoffman et al. in further view of Bourder et al. does not teach that said sequence setting part sets up the overlaying sequence to overlay line areas in front of filled closed areas.

Accad teaches overlaying line areas in front of filled closed areas. (col. 7 line 60 – col.8 line 10).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to overlay line in front of filled closed areas in the device of Tanaka, Hoffman et al.

The suggestion/motivation for doing so would have been that to avoid covering line by filled closed areas.

Therefore, it would have been obvious to combine Accad with Tanaka, Hoffman et al. and Bourder et al. to obtain the invention as specified in claim 2.

5. Claim 4 is rejected under 35 USC 103(a) as being unpatentable over Tanaka (US Patent Application Pub. 2002/0003897) in view of Hoffman et al. (US 2004/0169664) as applied to claim 1 above and further in view of Ohta et al. (US Patent 7,054,029).

Tanaka in view of Hoffman et al. teaches all the limitation of claim 1 (see above) which claim 4 depends.

Tanaka in view of Hoffman et al. also teach said image area extracting part comprises a first extracting part for extracting text image areas (Tanaka, Fig. 3, S4200) graphic image areas (Tanaka, Fig. 3, S4400), and photographic image areas (Tanaka, paragraph [0049]), from image data, and a second extracting part for extracting filled closed areas, unfilled closed areas, and line areas that do not form any closed areas from the extracted graphic image areas (Tanaka, Fig. 3, S4500, S4600, S4700, Fig.9 – Fig14); wherein said attribute recognizing part recognizes attributes concerning whether each extracted image area is a text image area, a photographic image area, a filled closed area, an unfilled closed area or a line area (Tanaka, paragraph [0049]), ;

Tanaka in view of Hoffman et al. does not teach that said sequence setting part sets up the overlaying sequence for each image area of text image areas, photographic image areas, filled closed areas, unfilled closed areas, and line areas in accordance with the recognition results of said attribute recognizing part.

Ohta et al. teaches that said sequence setting part sets up the overlaying sequence for each image area of text image areas, photographic image areas, filled closed areas, unfilled closed areas, and line areas in accordance with the recognition results of said attribute recognizing part (Fig 2A 112, Fig. 5, Fig. 6).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to sets up the overlaying sequence for each image area of text image areas, photographic image areas, filled closed areas, unfilled closed areas, and line areas in the device of Tanaka, Hoffman et al.

The suggestion/motivation for doing so would have been that to optimize image processing by identifying / segmenting the image layer so that they can be processed individually and then recombined into a desired order to achieve a better output image.

Therefore, it would have been obvious to combine Ohta et al. with Tanaka, Hoffman et al. to obtain the invention as specified in claim 4.

6. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Tanaka (US Patent Application Pub. 2002/0003897) in view of Hoffman et al. (US 2004/0169664) as applied to claim 4 above and further in view of Ohta et al. (US Patent 7,054,029).

Tanaka in view of Hoffman et al. and further in view of Ohta et al. teaches all the limitation of claim 4 (see above) which claim 5 depends.

Tanaka in view of Hoffman et al. and further in view of Ohta et al. does not teach that said sequence setting part sets up the overlaying sequence to overlay text image areas in front, filled closed areas and photographic image areas in back, and unfilled closed areas and line areas in between them.

It is clear that person of ordinary skill in the art to think text as most important information, so that, overlay text image areas in front, to avoid blocking line or unfilled closed area by photographic image or filled closed area, overlay lines and unfilled closed area in the middle and photographic image and filled closed area in back.

Therefore, it would have been obvious to combine Ohta et al. with Tanaka and Hoffman et al. to obtain the invention as specified in claim 5.

7. Claim 7 is rejected under 35 USC 103(a) as being unpatentable over Tanaka (US Patent Application Pub. 2002/0003897) in view of Hoffman et al. (US 2004/0169664) and further in view of Ohta et al. (US Patent 7,054,029).

Tanaka in view of Hoffman et al. and further in view of Ohta et al. teaches all the limitation of claim 4 (see above) which claim 7 depends.

Tanaka also teaches a vector transforming part for transforming image data in graphic image areas into vector data (Fig. 4);

a closed area extracting part for extracting closed areas based on the connection relation of a plurality of vector data (Fig. 5A); a color information judging part for

judging whether the color information of internal points and external points of the extracted closed areas are the same(Fig. 6 S4710); and a filled closed area detecting part for detecting filled closed areas based on the judgment results of the color information judging part (Fig. 6 S4750).

With respect to claim 9, please refer to rejection for claim 1.

With respect to claim 10, please refer to rejection for claim 2.

With respect to claim 11, please refer to rejection for claim 3.

With respect to claim 12, please refer to rejection for claim 4.

With respect to claim 13, please refer to rejection for claim 5.

With respect to claim 15, please refer to rejection for claim 7.

With respect to claim 16, please refer to rejection for claim 8.

With respect to claim 17, please refer to rejection for claim 1.

With respect to claim 18, please refer to rejection for claim 2.

With respect to claim 19, please refer to rejection for claim 3.

With respect to claim 20, please refer to rejection for claim 4.

With respect to claim 21, please refer to rejection for claim 5.

With respect to claim 23, please refer to rejection for claim 7.

With respect to claim 24, please refer to rejection for claim 8.

Allowable Subject Matter

8. Claims 6 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and clear all USC 112 and USC 101 issue.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randolph Chu whose telephone number is 571-270-1145. The examiner can normally be reached on Monday to Thursday from 7:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/RIC/

/Matthew C Bella/

Supervisory Patent Examiner, Art Unit 2624

Application Number**Application/Control No.**

10/689,669

**Applicant(s)/Patent under
Reexamination**

ICHIKAWA ET AL.

Examiner

RANDOLPH CHU

Art Unit

2624